

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

PABLO MELENDEZ, JR.,  
TDCJ No. 999192,

Petitioner,

V.

LORIE DAVIS, Director, Texas  
Department of Criminal Justice,  
Correctional Institutions Division,

Respondent.

No. 4:00-CV-190-Y

## ORDER GRANTING IN PART UNOPPOSED MOTION FOR APPOINTMENT OF NEW COUNSEL

Petitioner filed a motion on April 30, 2019 (doc. 23), in this capital habeas-corpus proceeding seeking to have a new attorney substituted for his former counsel. In response to this court's show cause order (doc. 25), the Federal Public Defender for the Northern District of Texas has explained why that office's Capital Habeas Unit is unable to accept appointment in this case (doc. 26). Petitioner's former counsel of record has informally communicated to the court his view that he no longer represents Petitioner.

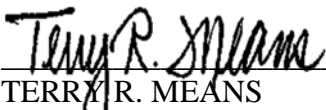
The standard for evaluating a motion for substitution of counsel in capital habeas actions is set forth in the Supreme Court’s opinion in *Martel v. Clair*, 565 U.S. 648, 663 (2017), in which the district courts were directed to consider the timeliness of the motion, the adequacy of the petitioner’s complaint (about his current counsel of record), and the asserted cause for that complaint. This Court denied Petitioner federal habeas-corpus relief in 2003. The United States Court of Appeals for the Fifth Circuit denied Petitioner a Certificate of Appealability the same calendar year. *Melendez v. Dretke*, 82 F. App’x 96 (5th Cir. Oct. 29, 2003). Petitioner

did not thereafter file a petition for writ of certiorari with the Supreme Court. There is no current execution date set for Petitioner.

Petitioner's motion does not appear to have been made in an untimely manner or for the purpose of causing undue delay. Under the circumstances, the interests of justice warrant granting Petitioner's request for appointment of new counsel. Appointment of the Capital Habeas Unit within the Office of the Federal Public Defender for the Western District of Texas (which employs multiple attorneys) will be more than sufficient to afford Petitioner adequate representation in this federal habeas-corpus proceeding. Appointment of additional counsel is not reasonably necessary.

Accordingly, Petitioner's motion to substitute attorney, filed April 30, 2019 (doc. 23), is **GRANTED** in part and the Capital Habeas Unit of the Federal Public Defender for the Western District of Texas is appointed counsel of record for Petitioner in accordance with 18 U.S.C. § 3599. Attorney Jack Strickland is relieved of his appointment.

SIGNED August 27, 2019.

  
TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE